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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of)

FCC MAIL ROOM

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

Comments of the New Mexico Attorney General

The New Mexico Attorney General respectfully submits a limited set of comments sought by the Federal Communications Commission (FCC) in its Notice of Proposed Rulemaking and Order Establishing Joint Board (NOPR) released on March 8, 1996. The Attorney General represents the interests of residential ratepayers within the state of New Mexico.

The Attorney General agrees generally with the comments submitted by the National Association of State Utility Consumer Advocates (NASUCA) in this docket. In addition, this office provides the following comments regarding specific paragraphs in the NOPR.

Para. 4. Comment is requested "on whether there are appropriate measures that could help [the FCC] assess whether 'affordable' service is being provided to all Americans." Recent studies have shown that 99.6% of households with incomes above \$50,000 have basic telephone service (BTS), while only 93.9% of all households have such service. See Rutgers University Project on Information Policy, Universal Service from the Bottom Up: A Profile of Telecommunications Access in Camden, New Jersey (1994). We can

presume that the 0.4% of households with incomes above \$50,000 that lack BTS can afford such service and therefore either have chosen not to have the service or have not yet been provided the service. Although members of different socioeconomic groups may have different motives in deciding to go without BTS, it is unlikely that significantly more than 0.4% of the overall population have chosen not to have BTS despite their ability to afford BTS.

By extrapolation, we conclude that approximately 5.7% of American households (the difference between the 99.6% that would chose BTS if they could afford it and the 93.9% that both choose, and can afford, BTS) either cannot afford BTS or have not yet been provided the service. Therefore, affordable service is not now being provided to all Americans. In general, the difference between the penetration rate for households with incomes above \$50,000 and the overall penetration rate appears to serve as a good measure of the degree to which affordable service is not available to all Americans.

Para. 14. Comment is sought proposing standards for evaluating the affordability of telecommunications services. The above comment responding to para. 4 of the NOPR does not necessarily mean that the Attorney General believes rates for BTS to be unaffordable. It is conceivable, for instance, that existing rates are affordable to current subscribers and that those persons who would choose, but cannot now afford, BTS would be able to afford BTS if the Lifeline and Link-up programs were significantly expanded. If such an expansion of those programs were carried out,

then it could be said that affordable BTS is available to all. It is also conceivable that there are numerous current subscribers who are paying beyond their means for those services. Perhaps the FCC could make such a determination by defining affordability of BTS (or of any other service that should be affordable) as a maximum percentage of a household's income. Such a percentage could be determined by using methods similar to those which have helped define affordability of housing as a percentage of household income.

Para. 16. Comment is sought regarding whether voice-grade access to the switched network, touch-tone service, single-party service, access to emergency services, and access to operator services should be supported by universal service funding. All of these services clearly meet the criteria for universal service funding support as core services, and we agree with the NOPR's reasoning in Paras. 18-22 suggesting as much.

Para. 23. Comment is sought regarding which additional services should receive universal service support based on the four criteria listed in Section 254(c)(1). Both directory service and equal access meet the four criteria. Directory assistance for other than local calling areas, in particular, is important to most residential consumers, who do not generally keep telephone directories for those areas and rely on directory assistance to obtain needed telephone numbers. Relay services are not subscribed to by a majority of subscribers, see section 254(c)(1)(B), but they are crucial to those with hearing disabilities. (We recognize that

the NOPR indicates that such services are supported by a separate funding mechanism pursuant to the American for Disabilities Act. NOPR at 12 n.42. We do not take a position at this time on whether support for relay services should remain where it is or included under universal service support.) Advanced services, such as internet access availability, data transmission availability, and broadband services, have not yet become widespread enough to warrant their inclusion among services supported by universal service and do not meet the section 254(c)(1)(B) criteria. However, that may change in the near future.

Para. 40. Comment is sought regarding whether the Universal Service Fund cap should be extended on July 1, 1996 and until the completion of the Joint Board and FCC deliberations regarding universal service. Such an extension is crucial to maintaining the universality of service during the transitional period in which the Telecommunications Act of 1996 is implemented.

Para. 50. Comment is sought regarding which additional services would be appropriate for low-income users. This office agrees that free access to telephone service information (including information regarding subsidy programs), toll blocking, limited reduced long-distance rates, and reduced service deposits are all crucial to raising subscribership among low-income consumers. To the extent that these services help prevent a cutoff of basic telephone services to low-income consumers, they are essential to public health and safety, and they are consistent with the public interest and necessity, not to mention convenience. Such services

would serve to "preserve and advance universal service," as section 254(b) requires. In addition, those consumers with toll blocking who are unqualified for Lifeline services should get a substantial reduction in their local monthly rates because of their lack of access to toll and long-distance services.

Finally, the concept of universal service should be expanded to include the homeless and highly mobile, as the NOPR suggests. One way to achieve this expansion would be to provide such services through the public libraries to people who are certified as homeless by government agencies or providers of services for the homeless. Such services should include free voice-mail services for the homeless. They would be of great help to homeless persons who are looking for jobs, seeking health care, housing, or educational opportunities. Information about such services could also be provided by the above-mentioned providers.

Para. 130. Comment is sought on whether the FCC should have state commissions collect and distribute universal service funds. Such an approach is not likely to work if the entire burden of collecting funds is thrust upon the state commissions. Relatively poor states would undoubtedly have less money per capita to distribute, and thus there would be insufficient funds to subsidize high-cost service areas and local exchange carriers would be less equipped to provide the needed services to low-income and homeless people. On the other hand, if a non-governmental fund administrator were to allocate universal service funds to the state commissions in accordance with an appropriate formula that takes

into account the demographics of each of the states, then perhaps the state commissions could be charged with distributing those funds.

Respectfully submitted,

TOM UDALL
New Mexico Attorney General



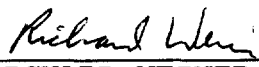
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the Comments of the New Mexico Attorney General were mailed on this 11th day of April 1996 to the International Transcription Service, Room 640, 1990 M Street, N.W., Washington, D.C. 20036 and to each of the members of the Federal-State Joint Board in accordance with the service list on pages 65-69 of the Notice of Proposed Rulemaking in this docket.



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State of New Mexico